

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

KATHLEEN LEININGER,

Plaintiff,

v.

Case No. SA-21-CV-01160-JKP

MARRIOTT INTERNATIONAL INC.,

Defendant.

ORDER

Before the Court is Plaintiff Kathleen Leininger's Declaration and Memorandum in support of Attorney Fees and Expenses and Defendant Marriott International's Response in opposition. *ECF Nos. 7,8,9.*

On January 21, 2022, this Court issued a Memorandum Opinion and Order granting Leininger's Motion to Remand this cause for the second time. *ECF No. 6.* This Court found Marriott's removal was objectively unreasonable and improper, and for that reason, granted Leininger's request for attorney fees, expenses, and costs.

An order remanding a case to state court may require "the payment of just costs and any actual expenses, including attorney fees, incurred as a result of the removal." 28 U.S.C. § 1447(c). An award of attorney fees is not automatic upon remand but may be awarded only upon a finding that the removing party lacks an objectively reasonable basis for removal. *Martin v. Franklin Capital Corp.*, 546 U.S. 132, 141 (2005); *Valdes v. Wal-Mart Stores, Inc.*, 199 F.3d 290, 292 (5th Cir. 2000).

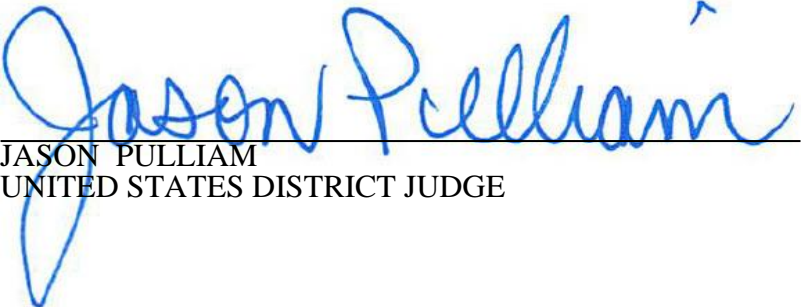
This is Marriott's second removal resulting in remand. Marriott presents no new evidence, event, other paper or information that was unavailable at the time of the first removal. This second removal is not based upon any facts or arguments that were not previously reviewed and analyzed in the first removal. Therefore, Marriott lacks an objectively reasonable basis for this second removal, and the Court granted Leininger's request for recovery of attorney fees, expenses, and costs incurred in presenting this second Motion to Remand

Upon consideration of Leininger's Motion for attorney fees and expenses and evidentiary support, IT IS HEREBY ORDERED Marriott shall pay Leininger a total of \$6,075.00 for the reasonable attorney fees, costs, and expenses incurred in filing the second Motion to Remand. Marriott shall make this payment on or before ten (10) days from the date of this Order. The amount owed is payable to Leininger, not directly to her counsel. Payment will be mailed to Leininger's attorney at his office: Joshua Sisam, Sisam & Associates, LLP, 110 Industrial Dr., Boerne, TX 78006, or by other arrangements that the parties agree upon.

IT IS ORDERED the Clerk of Court shall remand this cause to state court by sending a certified copy of the Court's Memorandum Opinion and Order dated January 21, 2022 to the clerk of the state court. The Clerk of Court is directed to close this case.

It is so ORDERED.

SIGNED this 9th day of February, 2022.



JASON PULLIAM
UNITED STATES DISTRICT JUDGE